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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,579	03/12/2004	Hirohito Kimoto	22040-00031-US	2578

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EXAMINER
SAUNDERS JR, JOSEPH

ART UNIT	PAPER NUMBER
2615	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/708,579	KIMOTO, HIROHITO
	Examiner	Art Unit	
	Joseph Saunders	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *12 March 2004*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-13* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-13* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *12 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☒ All   b)☐ Some * c)☐ None of:

       1. ☒ Certified copies of the priority documents have been received.

       2. ☐ Certified copies of the priority documents have been received in Application No. _____.

       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6-14-04*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This is the initial office action based on the application filed March 12, 2004.

Claims 1 – 13 are currently pending and considered below.

Specification

2.   The disclosure is objected to because of the following informalities: In the last

sentence of paragraph 20 "MP" should be "MP3". In the last sentence of paragraph 73

"commutation" should be "communication".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1 – 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Yano

(US 6,815,601 B2), hereinafter <u>Yano</u>.

Claim 1: <u>Yano</u> discloses a music file generating apparatus (system for delivering

music), comprising: a singing voice extraction means that extracts singing voices from

digital voice data in which said singing voices and voices other than such said singing

voices are mixed (voice data separator 12, Column 6 Lines 46 – 52), and obtains the

singing voice data in the PCM format (Pulse Code Modulation or Adaptive Differential

Pulse Code Modulation, Column 6 Lines 53 – 63); a MIDI generating means that

generates the BGM data in the MIDI format, generates simulated singing voice data in

the MIDI format corresponding to the singing voices extracted by said singing voice

extraction means, adds said simulated singing voice data to said BGM data, and adjusts

the MIDI data (synthesized voice and performance data, Column 7 Lines 15 -16 and 35

– 47); and a file generating means that processes the singing voice data in the PCM

format generated by said singing voice extraction means and the BGM and simulated

singing voice data in the MIDI format generated by said MIDI generating means as a

single music file (multiplexer 11).

Claim 2: Yano discloses the music file generating apparatus according to claim 1,

wherein said voices other than singing voices are BGM (Column 1 Lines 15 – 22).

Claim 3: Yano discloses the music file generating apparatus according to claim 1,

wherein said voices other than singing voices are noises (Column 1 Lines 15 – 22).

Claim 4: Yano discloses the music file generating apparatus according to claim 1,

wherein said singing voice extraction means performs a procedure of bandwidth limiting

of the digital voice data composed of a mixture of said singing voices and said voices

other than singing voices up to a predominated frequency band corresponding to said

singing voices (Column 6 Line 64 – Column 7 Line 3).

Claim 5: Yano discloses the music file generating apparatus according to claim 1,

wherein the music file generated by said file generating means is structured to include

the MIDI reproduction control information so as to reproduce said BGM and simulated

singing voice data in the MIDI format generated by said MIDI generating means

(Column 7 Lines 35 – 47 and Column 8 Lines 16 – 20) and the PCM reproduction

control information so as to synthesize said singing voice data in the PCM format

generated by said singing voice extraction means for said simulated singing voice data

and to reproduce such singing voice data (Column 6 Lines 53 – 63 and Column 8 Lines

21 – 33).

Claim 6: Yano discloses a music file generating method (method for delivering music),

comprising: a first step that extracts singing voices from the digital voice data composed

of a mixture of said singing voices and voices other than said singing voices (voice data

separator 12, Column 6 Lines 46 – 52), and obtains the singing voice data in the PCM

format (Pulse Code Modulation or Adaptive Differential Pulse Code Modulation, Column

6 Lines 53 – 63); a second step that generates BGM data in the MIDI format; a third

step that generates simulated singing voice data in the MIDI format corresponding to

the singing voices extracted in said first step, adds said simulated singing voice data to

the BGM data generated in said second step, and adjusts the MIDI data (synthesized

voice and performance data, Column 7 Lines 15 -16 and 35 – 47); and a fourth step that

processes the singing voice data in the PCM format generated in said first step and the

BGM and simulated singing voice data in the MIDI format adjusted in said third step into

a single music file (multiplexer 11).

Claim 7: Yano discloses the music file generating method according to claim 6, wherein

said voices other than singing voices are BGM (Column 1 Lines 15 – 22).

Claim 8: Yano discloses the music file generating method according to claim 6, wherein

said voices other than singing voices are noises (Column 1 Lines 15 – 22).

Claim 9: Yano discloses the music file generating method according to claim 6, wherein

in said first step, a procedure of bandwidth limiting of the digital voice data composed of

a mixture of said singing voices and said voices other than singing voices up to a

predominated frequency band corresponding to said singing voices is performed

(Column 6 Line 64 – Column 7 Line 3).

Claim 10: Yano discloses the music file generating method according to claim 6,

wherein in said fourth step, a procedure of adjustment is performed to synthesize the

reproduction timing of said singing voice data in the PCM format that has been

generated in said second step, and said BGM and simulated singing voice data in the

MIDI format generated in said third step (Column 7 Lines 30 – 34).

Claim 11: <u>Yano</u> discloses the music file generating method according to claim 6,

wherein the music file generated in said fourth step is structured to include the MIDI

reproduction control information so as to reproduce said BGM and simulated singing

voice data in the MIDI format generated in said third step (Column 7 Lines 35 – 47 and

Column 8 Lines 16 – 20), and the PCM reproduction control information so as to

synthesize said singing voice data in the PCM format generated in said second step for

said simulated singing voice data and to reproduce such singing voice data (Column 6

Lines 53 – 63 and Column 8 Lines 21 – 33).

Claim 12: <u>Yano</u> discloses a recorded medium ("delivering data") readable by computer

(CPU 20), comprising: PCM data composed of singing voices in the PCM format (voice

data as Pulse Code Modulation or Adaptive Differential Pulse Code Modulation, Column

6 Lines 53 – 63); and MIDI data where simulated singing voice data in the MIDI format

that is generated corresponding to the singing voices of said PCM data is added to

BGM data in the MIDI format (synthesized voice and performance data, Column 7 Lines

15 -16 and 35 – 47); wherein a music file with a data structure where said PCM data

and said MIDI data are integrated into a single file is recorded ("delivering data").

Claim 13: <u>Yano</u> discloses a recorded medium readable by computer according to claim

12, wherein said music file includes the MIDI reproduction control information so as to

reproduce said MIDI data (Column 7 Lines 35 – 47 and Column 8 Lines 16 – 20), and

the PCM reproduction control information so as to synthesize said PCM data to said

MIDI data and to reproduce such PCM data (Column 6 Lines 53 – 63 and Column 8

Lines 21 – 33).

5.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Joseph Saunders whose telephone number is (571)

270-1063. The examiner can normally be reached on Monday - Thursday, 9:00 a.m. -

4:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS
July 7, 2007

SINH TRAN
SUPERVISORY PATENT EXAMINER